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August 1, 2002

## **BY HAND**

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station  
Boston, Massachusetts 02110

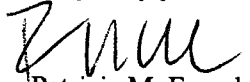
Re: Fitchburg Gas and Electric Light Company, D.T.E. 02-24/25

Dear Ms. Cottrell:

Enclosed for filing on behalf of Fitchburg Gas and Electric Light Company, please find an original and eight copies of a Motion for Protective Treatment for proprietary customer usage information provided, as part of discovery in this proceeding, in response to AG-5-14 (Electric), AG-7-6 (Gas), AG-7-52 (Electric) and AG-7-53 (Electric). With a copy of this Motion, a proprietary and confidential copy of each of the KES Test Year Summary, the IT Test Year Summary, the 2000-2002 Fitchburg Sales and Demands and the 2000-2002 Princeton Sales and Demands is being provided in single copy to the Hearing Officer, Jeannie Voveris.

Thank you for your consideration to this matter.

Very truly yours,

  
Patricia M. French

Mary L. Cottrell, Secretary  
August 1, 2002  
Page 2

cc: Jeannie Voveris, Esq. Hearing Officer (3)  
Sean Hanley, Asst. Director Rates and Revenues Requirement Division (6)  
Paul E. Osborne, Asst. Director Rates and Revenue Requirement Division (6)  
Wilner Borgella, Jr. Assistant Attorney General (2)  
Matthew T. Morais, Esq., DOER (2)  
Service List

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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FITCHBURG GAS AND ELECTRIC  
LIGHT COMPANY  
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D.T.E. 02-24/25

**MOTION OF FITCHBURG GAS AND ELECTRIC LIGHT COMPANY  
FOR PROTECTIVE TREATMENT**

NOW COMES Fitchburg Gas and Electric Light Company ("FG&E") and respectfully requests that the Department of Telecommunications and Energy ("Department") grant it protection from public disclosure over certain confidential, competitively sensitive and proprietary information submitted in this proceeding in accordance with G.L. c. 25, § 5D. In support of its Motion, FG&E states:

1. In its Fifth and Seventh Sets of Information Requests, the Attorney General ("AG") made the following inquiries.

**Request No. AG-5-14 (Electric):**

Please provide copies of all Special Contracts currently in effect. Include all pricing terms and copies of the Department's approval of each agreement. For each Special Contract, provide the test year monthly revenues, segregating the revenues into volumetric, demand and customer charge revenues, and provide the actual monthly bill determinants for each revenue category.

**Request No. AG-6-7 (Gas):**

Please provide the sales, demand and energy, by month to the Water District facilities by month for the years 2000, 2001 and 2002.

**Request No. AG-7-52 (Electric):**

Please provide the sales, demand and energy, by month to the Water District facilities by month for the years 2000, 2001 and 2002.

**Request No. AG-7-53 (Electric):**

Please provide the sales, demand and energy, by month to the occupant of the Princeton Paper site (e.g. Princeton Paper, Fitchburg Operating, LLC, Newark) by month for the years 2000, 2001 and 2002.

2. FG&E is prepared, in response to the AG's requests, to provide to the Department's Hearing Officer and to the parties that have executed confidentiality agreements, (a) in response to AG-5-14 (Electric), a summary of the test year monthly revenues and bill determinants for KES Fitchburg, L.P. ("KES Test Year Summary"); (b) in response to AG-7-6 (Gas), the 2001 Interruptible Transportation Volumes and Revenues by Customer (the "IT Test Year Summary"); (c) in response to AG-7-52 (Electric), the 2000-2002 sales and demands for the East and West Wastewater Treatment Plants in Fitchburg (the "2000-2002 Fitchburg Sales and Demands"); and (d) in response to AG-7-53, the 2000-2002 sales and demands to the two former Princeton Paper locations (the "2000-2002 Princeton Sales and Demands").

3. The KES Test Year Summary, the IT Test Year Summary, the 2000-2002 Fitchburg Sales and Demands and the 2000-2002 Princeton Sales and Demands include confidential and competitively sensitive customer load information. Because this customer load information constitutes confidential and competitively sensitive business and customer usage information, FG&E requests protection of this information from public disclosure pursuant to Chapter 25, Section 5D of the General Laws of Massachusetts.

4. G.L. c. 25, § 5D is specifically designed to protect against disclosure of

competitively sensitive information. That provision, in part, provides:

[T]he [D]epartment may protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection. Where such a need has been found to exist, the [D]epartment shall protect only so much of the information as is necessary to meet such need.

G.L. c. 25, § 5D. In determining the existence and extent of such a need, the Department must consider the presumption in favor of disclosure and the specific reasons why disclosure of the disputed information benefits the public interest. Fitchburg Gas and Electric Light Co., D.P.U. 97-5A, p. 4 (1997), citing Berkshire Gas Co., D.P.U. 93-187/188/189/190, p. 16 (1994). The utility must show need by a specific factual demonstration and must show the manner in which the information is competitively sensitive. Id. (citations omitted).

5. The Department previously has recognized the confidential and proprietary nature of a commercial or industrial customer's usage information observing that such information may reveal information relating to a customer's business practices or operations and by giving customers the opportunity to "opt out" of a process whereby distribution companies would provide such information to other competitive suppliers. Investigation by the Department of Telecommunications and Energy on its own Motion into Competitive Market Initiatives, D.T.E. 01-54-A, p. 12 (2001). Disclosure of such information may compromise the customer's position in negotiating with competitive suppliers or provide an unfair advantage to competitors.

6. FG&E's confidential information regarding its customers' load information should

be protected from public disclosure because it is commercial, competitively sensitive and proprietary information. Disclosure of such customer usage information would give an unfair advantage to other suppliers of gas or electricity in negotiating supply contracts or gas transportation contracts. This confidential, commercially, sensitive and proprietary information is the type of information that the Department may protect from public disclosure pursuant to G.L. c. 25, § 5D.

**WHEREFORE**, Fitchburg Gas and Electric Light Company respectfully requests that the Department of Telecommunications and Energy grant its Motion for Protective Treatment as stated herein, and protect from public disclosure the contents of the KES Test Year Summary, the IT Test Year Summary, the 2000-2002 Fitchburg Sales and Demands and the 2000-2002 Princeton Sales and Demands containing confidential customer usage information relative to FG&E's supply of electricity or transportation of gas as provided in response to AG-5-14 (Electric), AG-7-6 (Gas), AG-7-52 (Electric) and AG-7-53 (Electric).

Respectfully submitted,

**FITCHBURG GAS AND ELECTRIC  
LIGHT COMPANY**

By its attorneys,



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Scott J. Mueller

Patricia M. French

Meabh Purcell

LEBOEUF, LAMB, GREENE & MACRAE, L.L.P.

260 Franklin Street

Boston, MA 02110-3173

(617) 439-9500

Dated: August 1, 2002

CERTIFICATION

I, Patricia M. French, certify that I caused to have served a copy of the within Motion on the service list on file with the Secretary of the Department of Telecommunications and Energy for D.T.E. 02-24/25.

Dated at Boston, this 1st day of August, 2002.

  
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Patricia M. French